

Senate Standing Committee on Environment and Communications
Legislation Committee
Answers to questions on notice
Environment portfolio

Question No: 172
Hearing: Additional Estimates
Outcome: Corporate
Programme: Legal
Topic: Legal Costs
Hansard Page: N/A
Question Date: 19 February 2016
Question Type: Written

Senator Ludwig asked:

Since the change of Prime Minister on 14 September, 2015:

1. List all legal costs incurred by the department or agency
2. List the total cost for these items, broken down by source of legal advice, hours retained or taken to prepare the advice and the level of counsel used in preparing the advice, whether the advice was internal or external
3. List cost spend briefing Counsel, broken down by hours spent briefing, whether it was direct or indirect briefing, the gender ratio of Counsel, how each Counsel was engaged (departmental, ministerial)
4. How was each piece of advice procured? Detail the method of identifying legal advice?

Answer:

1. *External costs*

The Department of the Environment must each year report its legal services expenditure under the *Legal Services Directions 2005*. This information must be provided to the Office of Legal Services Coordination within 60 days of the end of financial year and is subsequently published on the Department's website and as part of a report of all Commonwealth agencies' legal spending.

External legal expenditure data will be compiled following the end of the financial year. Compiling figures for the Department's external legal spend at this time, outside of the regular reporting cycle, would involve an unreasonable diversion of resources.

Internal costs

The Department (not including its portfolio agencies) spent \$1,713,091 on the salaries and on costs of internal lawyers for the period 14 September 2015 to 19 February 2016.

2. As discussed at 1 above, providing details relating to legal advice outside of the regular reporting cycle would involve an unreasonable diversion of the Department's resources at this time.

Further, the Australian Government does not generally disclose details about the legal advice it obtains, including the fact that it obtains such advice. It is important for any government to be able to make fully informed decisions based on comprehensive and confidential legal advice. Providing these details may undermine the protection of the confidentiality of the Australian Government's legal advice.

3. When engaging counsel, the Department takes into account advice from solicitors instructed by the Department and acts in accordance with Appendix D to the *Legal Services Directions 2005*.

As discussed at 1 above, the Department must each year report its legal services expenditure under the *Legal Services Directions 2005*. These reports provide information on costs spent briefing Counsel, and specify the number of briefs to male and female counsel and the number of direct and indirect briefs to male and female counsel.

This information must be provided to the Office of Legal Services Coordination within 60 days of the end of financial year and published on the Department's website and as part of a report of all Commonwealth agencies' legal spending. This information will be compiled following the end of the financial year and providing such figures outside of the regular reporting cycle would involve an unreasonable diversion of resources at this time.

4. The Department obtains legal advice from its General Counsel Branch and from external lawyers:
 - The Department's General Counsel Branch provides legal advice on matters arising as from the Department's activities.
 - The Department obtains advice on tied legal work matters (covering constitutional law, legislation, Cabinet matters and international law) from the Australian Government Solicitor, the Offices of Constitutional Law and International Law in the Attorney-General's Department and the Department of Foreign Affairs and Trade.
 - Where necessary and appropriate, the Department obtains externally sourced legal advice from private legal services providers on the Legal Services Multi-Use List (maintained by the Attorney-General's Department) and the Australian Government Solicitor.